

case. The investors in these funds include large institutional clients, such as pension funds and insurance companies. TRIUVA's primary fiduciary obligation, as trustee for the money invested, is to these third-party investors. In this role, TRIUVA purchases completed real estate projects throughout Europe and other parts of the world, including the caverns at issue in Etzel, Germany.


3. TRIUVA and IVG Caverns GmbH ("IVG Caverns") have no direct parent in common. TRIUVA is 94% owned by IVG Funds Holding Co. and 6% owned by DB Value, S.a.r.l., Luxembourg ("DB"). IVG Funds Holding Company is affiliated with the IVG group of companies by virtue of IVG Immobilien AG's stakehold interest in IVG Funds Holding. DB is a Deutsche Bank AG entity, and has no affiliation with any of the IVG companies whatsoever. IVG Caverns is wholly owned by IVG Caverns 0870 Holding GmbH, an entity unrelated to TRIUVA, which is affiliated with the IVG group of companies.

4. TRIUVA and IVG Caverns are entirely separate corporations. TRIUVA has no ownership interest in IVG Caverns, and IVG Caverns has no ownership interest in TRIUVA. TRIUVA pays IVG Caverns to operate its caverns in Etzel pursuant to a negotiated, arm's-length agreement.

5. TRIUVA purchased the caverns at issue from IVG Caverns as part of a highly competitive bidding process. TRIUVA competed with numerous other infrastructure investor bidders to purchase the caverns at issue. TRIUVA did not purchase, nor advance funds for, any cavern until IVG Caverns had independently financed, developed and fully completed the caverns, including securing long-term tenants for them and handing over the caverns to these tenants.

6. TRIUVA did not purchase any of the caverns in the Etzel field until these caverns were fully completed and leased. In fact, TRIUVA is prohibited by the caverns funds' charter, and thus by German law, from assuming any development risk in the caverns real estate investments. TRIUVA thus could not have owned, and did not own, the caverns at the time they were being developed by IVG Caverns.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed December 3, 2015 in Frankfurt am Main, Germany.

By: 
Kilian Mahler

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been forwarded to all counsel of record via the Court's electronic filing system pursuant to the Federal Rules of Civil Procedure on the 7th Day of December, 2015.

/s/ Mark Holscher

Mark Holscher